

REMARKS

Applicants respectfully request consideration of the present application in view of the above amendment and the following remarks. Upon entry of the above amendment, claims 6-25 remain pending in the application. Claims 1-5 have been canceled. Claims 6-25 have been added as new. Support for the amendments can be found in the original claims and throughout the specification. No new matter has been added.

Claims 1-5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,949,514 (Wargon). The Examiner states, in relevant part:

“Wargon discloses adhesive eyeglasses which comprise lens 24 having a perimeter that defines a cutout 22 along a nose portion thereof, and a frame 14 having an adhesive side 28 comprising a first portion and a second portion, wherein said first portion runs along the perimeter nose portion of said lens. However, the adhesive side is formed a seal between the frame and the user’s face, but not both a seal between the frame and the user’s face and a seal between the frame and the lens as claimed. Although Wargon device does not teach the position of the lens on the same side of the adhesive side as that claimed by applicant, the position of the lens on either side of the frame are considered obvious choices and are not patentable unless unexpected results are obtained from these changes. Therefore, it would have been obvious to a person having ordinary skill in this art to modify the Wargon’s device by affixing the lens to the frame on the same side of the adhesive side as the applicant’s. Such a modification of the position of the lens would not change the scope of the invention in the Wargon reference.” *Office Action mailed September 20, 2004, pages 2-3.*

The Applicants respectfully traverse this rejection. First, Applicant wishes to note that the scope of the present claims has been modified away from a focus on the nose portion of the lens and the sealing means provided by the frame. The claims are directed at eyewear that comprise a lens that is adapted to cover a user’s eyes, and sealing frames which are disposed adjacent the lens’ opposed lateral edges. Each frame contains a first portion and a second portion, and has an adhesive side. The first portion adhesive side is disposed along the opposed lateral edge of the lens and the second portion adhesive side extends beyond the lateral edges of the lens and is adapted to conform to the shape of a user’s face

Wargon fails to disclose or render obvious the fact that the frame in applicant's invention extends laterally beyond the perimeter of the lens. This provides for a seal between the frame and lens and a means by which the eyewear can be secured to the face of a wearer.

Secondly, the Examiner correctly points out that Wargon fails to disclose the adhesive forming both a seal between the frame and the user's face and a seal between the frame and the lens – instead only disclosing the adhesive forming a seal between the frame and the user's face.

Further, Wargon requires attachment means between the frame and lens that is distinctly separate from the sealing means between the frame and the user's face. The Office can not simply summarily dismiss this distinction, particularly when such a feature is important to Applicant's invention.

Lastly, the arrangement of the lens, frame and adhesive side provide unexpected benefits unrealized by Wargon. The arrangement of these features provides for fewer components than required by Wargon. Wargon requires three components: a lens, a frame and an adhesive strip, whereas Applicant's invention contains two components: a lens and frame having an adhesive side. Further, Applicant's claimed eyewear utilizes the same component (the frame) for attachment means between (i) the frame and lens and (ii) the frame and the user's face. Contrastingly, Wargon requires separate and distinct attachment means between (a) the frame and lens, (b) the frame and adhesive strip, and (c) the adhesive strip and the user's face.

Moreover, with respect to claims 6-21, Wargon fails to disclose distinct frame members disposed adjacent opposed lateral edges of the lens. With respect to claims 22-25, Wargon fails to disclose frame members at opposed lateral edges of lens portions that define holes in the frame adjacent lateral edges of the lens.

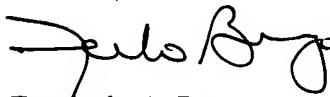
As clearly set forth above, the Office has failed to establish a *prima facie* case of obviousness such that the obviousness rejection of the claims should be withdrawn.

CONCLUSION

Based on the foregoing amendments and accompanying remarks, Applicants respectfully submit that the claims are in a condition suitable for allowance and a Notice to that effect is

respectfully solicited. The Examiner is encouraged to contact the undersigned if such would facilitate the successful prosecution of the instant application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Fernando Borrego". The signature is fluid and cursive, with the first and last names being more prominent.

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